

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

ROBERT KARL MAXWELL, )  
Petitioner, )  
vs. ) Case No. CIV-08-744-M  
UNITED STATES OF AMERICA, )  
Respondent. )

## ORDER

On September 17, 2008, United States Magistrate Judge Valerie K. Couch issued a Report and Recommendation in this action brought pursuant to 28 U.S.C. § 1651(a), seeking a writ of mandamus. Based upon petitioner's failure to pay the filing fee, to file a motion for leave to proceed *in forma pauperis*, or to request an extension of time to do so, the Magistrate Judge recommended that this action be dismissed without prejudice to the filing of a new action. Petitioner was advised of his right to object to the Report and Recommendation by October 7, 2008. A review of the file reveals no objection has been filed.

Accordingly, upon de novo review, the Court:

- (1) ADOPTS the Report and Recommendation issued by the Magistrate Judge on September 17, 2008; and
- (2) DISMISSES this action without prejudice to the filing of a new action.

**IT IS SO ORDERED** this 4<sup>th</sup> day of November, 2008.

  
VICKI MILES-LAGRANGE  
UNITED STATES DISTRICT JUDGE